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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,005	04/06/2006	Warren Edward Roh	IDP-0401 US	7008

25007 7590 01/31/2011
LAW OFFICE OF DALE B. HALLING
3595 FOUNTAIN BOULEVARD SUITE A2
COLORADO SPRINGS, CO 80910

EXAMINER

HELVEY, PETER N.

ART UNIT	PAPER NUMBER
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3782

MAIL DATE	DELIVERY MODE
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01/31/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/575,005	Applicant(s) ROH, WARREN EDWARD	
	Examiner PETER HELVEY	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/22/2010 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-8, and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Gendala* (US 6131779) in view of *Magee* (US 6394329).

Gendala discloses a universal carrying device, comprising: a first substantially rectangular/planar cover (14a) having a ledge (50), wherein the ledge reduces the chances of the universal carrier from dislodging from behind a user's belt; having a slot (Figs. 6, 7; belt clip forms slot; intended use interpretations apply) for holding a card; a substantially rectangular carrier having

an opening (Fig. 8; rectangular with a curve; alternative see *Magee* panel structure substituted below) and a hinge (Fig. 10 @24) attaching the first substantially rectangular cover to the first substantially rectangular carrier; the first substantially rectangular cover snap fits (Figs. 7; col. 4, ll. 10-15) with the substantially rectangular carrier; a lip (14c) along a portion of the substantially rectangular cover; the first substantially planar cover has a flange (14b) along a portion of the lip.

Gendala does not expressly disclose the second carrier being planar (rather being curved) or having the opening shape with hinge line as claimed.

However, *Magee* discloses a substantially rectangular carrier/cover that is substantially planar, has a hinge line (158; see below) that divides the opening, wherein the hinge line divides the substantial rectangular carrier/cover into a first part and a second part and allows the first part to pivot about the hinge line (flexibility disclosed by *Magee*; see below); the hinge line extends across the opening; the opening has a narrow end and a fat end; or wherein the substantially rectangular carrier has a hinge line that divides the opening into a first portion and a second portion, wherein the hinge line divides the substantial rectangular carrier into a first part and a second part and allows the first part to pivot about the hinge line (Fig. 23).

Where *Magee* discloses the accordion pleats provide additional flexibility to the panel, which when loaded with a bottle clearly results in the lower portion pivoting around the accordion pleat point due to the weight of the bottle hanging

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down, and applicant has not specifically alternatively defined the terms in the specification as originally filed, the examiner considers the accordion pleats to meet the broadest reasonable scope of "hinge line". The examiner further notes that the closed opening formed by *Magee* would clearly be recognized by one of ordinary skill in the art at the time the invention was made to hold a bottle more securely than the open ended opening taught by *Gendala* which would allow a bottle to slip out more easily.

At the time of the invention, it would have been obvious to a person having ordinary skill in the art to replace the bottle retaining panel structure taught by *Gendala* with that taught by *Magee*, in order to more securely hold the bottle.

Additionally, because *Gendala* and *Magee* both bottle retaining panel structures for belt clip use, it would have been obvious to one of ordinary skill in the art to substitute the panel/opening structure taught by *Magee* for that taught by *Gendala* to achieve the predictable result of securely holding a bottle.

Regarding the limitation, "a carrier adapter that engages the opening", the examiner is applying the following interpretation. Where applicant has failed to give a special definition, the broadest reasonable common meaning of the term "adapter", "somebody or something that changes something", will be applied. As such, the examiner considers the user's fingers, which can engage the openings in the combination recited above, to be "adapters" because they apply a change to the carrier by helping remove its contents. The examiner maintains this

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uncontested interpretation from the previous actions, absent any additional structural limitations added.

4. Claims 2 and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Gendala* in view of *Magee* as applied to claims 1, 3-8, and 10-13 above, and further in view of *Blanchester* (US 6880714).

Gendala as modified by *Magee* discloses the limitations of the claim(s) as detailed above except does not expressly disclose the hinge being a living hinge.

However, *Blanchester* teaches using a living hinge (30) to connect and allow snapping closed a bottle carrier similar to both *Gendala* and *Magee* (Figs. 1-4). The examiner further notes the reduced complexity and costs of manufacturing of using a living hinge rather than a multi-part pin based hinge or accordion pleats to provide flexibility and considers the advantages of such to clearly have been obvious to one of ordinary skill in the art at the time the invention was made.

Additionally, because *Gendala* and *Blanchester* both hinged bottle retaining panel structures for belt clip use, it would have been obvious to one of ordinary skill in the art to substitute the living hinge taught by *Blanchester* for the mechanical taught by *Gendala* to achieve the predictable result of securely holding a bottle, allowing pivoting movement, and reducing costs and complexity of manufacturing. It would also have been obvious to replace the accordion pleats of *Magee* with a living hinge like that taught by *Blanchester* to provide the same flexibility, consistency in manufacturing techniques, and reduced costs and

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complexity of manufacturing as living hinges are clearly easier and cheaper to manufacture than a folded accordion pleat structure.

Any surface of the above noted combinations can be a printing surface and Figs. 4,5 of *Gendala* best show the cutouts (at edges of panel).

Response to Arguments

5. Applicant's arguments with respect to claims 1-8 and 10-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER HELVEY whose telephone number is (571)270-1423. The examiner can normally be reached on M-Th 8:00 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. H./

Examiner, Art Unit 3782

January 22, 2011

/Nathan J. Newhouse/

Supervisory Patent Examiner, Art Unit 3782